

DEPARTMENT : MDNR-Div. of Waters

STATE OF MINNESOTA

Office Memorandum

DATE : March/0 , 1988

TO : File - Mississippi River

FROM : Bill Zachmann, Hydrologist *Bill Z.*
Wild and Scenic Rivers Program

PHONE : 6-9224

SUBJECT : STATEMENT OF NEED AND REASONABLENESS - MISSISSIPPI RIVER RULE BOUNDARY AMENDMENTS

This memo is intended to serve as the file document for fulfilling the Statement of Need and Reasonableness for the above referenced rule amendments.

Amendments to the rule were developed after an evaluation of the Mississippi River rule by Dale Homuth and Bill Zachmann, Division of Waters during the period November, 1987 ending February, 1988. County, city and township administrators have actively participated in the evaluation.

The boundary amendments remove 57.5 acres of land from the back part of the district that is served by public sewer. Public service was available in this area at the time the district boundaries were established, but the implemented land use controls did not reflect this. Instead, low density residential, agricultural, and open space recreation uses were the only uses allowed. These allowable uses limit the development potential of the area given the public services that are available. Land remaining in the district is a 300' wide corridor parallel to the Mississippi River in Govt. Lots 1 and 2. Additionally, staff recommended a boundary change in Govt. Lot 3, to remove 14 acres, thereby making the boundary delineation of Govt. Lots 1 and 2 more consistent in relation to Govt. 3 and adjacent district boundaries. As a condition of the above boundary amendment, the landowner has agreed to development restrictions within 300' from the river in Government Lots 1 and 2. This is more restrictive than current minimums would allow.

The attached memorandum from Dale Homuth to Bill Zachmann, dated, 1/27/88 and the accompanying background information are hereby made part of this Statement of Need and Reasonableness. Additionally, the above proposed amendment will not adversely affect small businesses or agriculture.

Additional documents pertaining to the Mississippi River boundary amendment are on file at the Division of Waters, Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, MN. 55155-4032.

BZ:fw

Attachment

I. BACKGROUND INFORMATION

a. Has the local unit of government passed a resolution endorsing an amendment to the land use district boundary?

Yes (Provide a copy of resolution) No (STOP; No rule amendments Tacking local County Board/City Council/Town Board endorsement.)

All 3 involved units have passed resolutions.

b. The amendment proposed is in a: Wild; Scenic; Recreational District.

c. Land is proposed to be: Remove from; Added to; the District.

d. The number of acres involved is:

	Present	Proposed
Gov. lot #1 =	31.26	10.5
" " #2 =	32.74	10.0
" " #3 =	35.07	21.1
	99.07	41.6

52.5 Acres (to nearest 0.01 acre)

e. Is any of the area in a Floodway ~~Yes~~^{No} (yes/no); Flood Fringe ~~Yes~~^{No}? (List acres)

f. Under the community's present zoning ordinance for the amendment area, list the required information in Column X of Table 1.

Table 1. Zoning Standards Comparisons

	<u>Column X</u>	<u>Column Y</u>
	<u>Existing Standards</u>	<u>Proposed Standards</u>
i) Minimum lot sizes [sq. ft. or acres]	<u>4 acres</u>	<u>no minimum Area*</u> <u>40ft min Frontage</u>
ii) Applicable structure setbacks*		
- River (OHW)	<u>150'</u>	<u>NA</u>
- Bluff	<u>30'</u>	<u>NA</u>
- Sewage (OHW)	<u>100'</u>	<u>NA</u>
- Other (list)	<u> </u>	<u> </u>
iii) Max building height	<u>35'</u>	<u>none *</u>

*If the area is beyond the 1st development tier, has no bluff areas, etc. enter "N/A" as appropriate.

	<u>Column X</u>	<u>Column Y</u>
iv) Allowable Uses - Permitted	Standard W+S River Uses	All Commercial Uses Such as retail, medical, office, etc.
- Conditionally Permitted		Shopping centers over 100,000 ft ² .
v) Prohibited Uses		Single + 2 family residential , Industrial, Manufacturing, etc.

g. Are there any DNR natural heritage elements known to be within or near the amendment area? If yes, will an amendment to the district adversely affect them? (Explain) *no*

double check

h. Are there any wetland types 2-8 (U.S. F.W.S. Circ. 39) within the area proposed for amendment? Yes No

If yes, list:

Type(s) _____
 Total size _____ (acres)
 Acres within amendment area _____
 PWI # _____ (if type 3-5)
 Permit history, if any, _____
 for wetlands, _____

- i. Please attach a scaled map of the local land use district, showing the river, significant vegetative and topographic features, the area proposed for amendment, road alignments, current and proposed adjacent zoning district delineations, and any other items appropriate on the map (U.S.G.S. topo map copies acceptable).
- j. Photos of the area in question as viewed from the river and surrounding area, plus aerial photos, if available, should accompany this worksheet. ATTACH AT BACK.

II. JUSTIFICATION FOR AMENDMENT

- a. Describe why this amendment is needed?

Public sewer is available to this property and it is in the process of being annexed into the City. Current WTS boundaries are based only on the 320 acres per river mile rule, with little thought given as to what property it covers or whether it's visible from the river. Amendment is needed to allow City to use this site located at a major intersection of I-94 as a commercial site -

- b. Based on the map in Item 1. i., does the proposed amendment result in a "spot zoning" appearance? (If yes, either the amendment as proposed must be resubmitted to eliminate spot zoning and be re-evaluated or be denied at this time.) Yes to some degree, but mainly because it's proposed to use a 300' boundary instead of a Gov. lot line boundary. This is consistent with other WTS River Boundaries.
- c. Have other possibilities or methods to resolve existing land use conflicts been explored that would preclude a rule amendment?

Yes (explain) No (why not?)

City's original intent was to apply their WTS Ordinance provisions to the property. This would have allowed structures to be setback 50' from river, and I am opposed to such an amendment.

- d. Go back to Table 1 in Part I. f. of the worksheet and fill in Column Y according to the zoning standards that would apply under the proposed amendment.
- e. Generally, from Table 1, would an amendment as proposed result in More Restrictive or Less Restrictive zoning standards than those now in effect? (Briefly explain)

Less Restrictive. City proposes to zone area as a C 5 - Hwy Commercial District.

- f. Explain how the proposed amendment either conflicts with or is consistent with and compliments the community's comprehensive land use plan for the area? (Be detailed in responding to this question).

City is in the process of developing amendments to its plan and Ordinance to cover this new area. Need these before process begins.

g. Are there other similar land use conflicts or zoning issues in other parts of the land use district and in the jurisdiction of the community?

_____ Yes; how many and type _____ No (go to Part III.b)

i) If yes, what is the community's plan of action to resolve these conflicts or issues?

* I have discussed this with both Co. + City Staff. These appear to be only changes needed. I did make it clear that
 no such changes would be again made in Stearns Co. for a long time.

ii) Would additional land use district boundary amendments be one alternative to resolving these conflicts or issues? (Explain)

III. SUMMARY FOR ACTION ON THIS PROPOSAL

a. If the answer to item II. g. ii) (above) is 'yes', and the local unit of government has not reviewed the entire land use district subject to their jurisdiction for additional, justifiable land use district rule amendments prior to endorsing the proposed amendment herein, this amendment must be tabled until a more complete and thorough review of the program in the community is conducted.

b. If the answer to item II. g. is 'no', and the amendment being proposed addresses a unique land use conflict in the community that a rule change could resolve, and

TRUE FALSE

i) The proposed amendment does not appear to be detrimental to or conflict with the river land use district and community long range planning;

ii) Zoning provisions will not be substantially less restrictive by allowing a higher density of use;

iii) Those uses that would be allowed by the amendment that aren't presently allowed would be handled as conditionally permitted uses;

iv) The amendment will not result in a 'spot' zoning appearance to the community's zoning map; and

v) The amendment will not adversely affect existing small businesses or agriculture.

THEN, Note: Ag. use of property at present is marginal, at best.

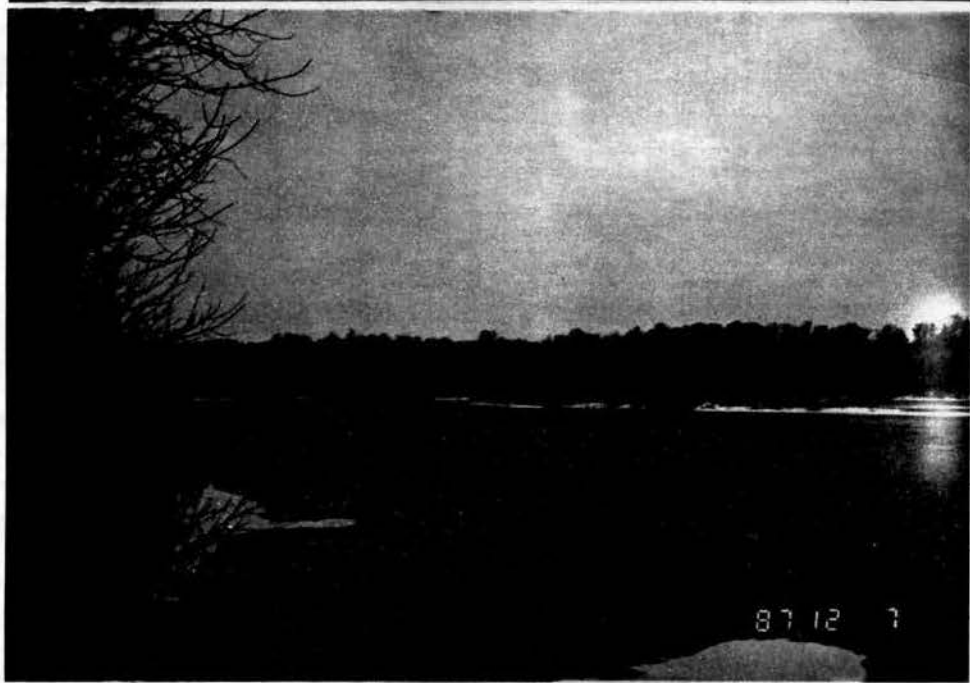
c. Submit this completed worksheet for initiation of agency consideration for adoption (amendment) of a state rule without a public hearing.

12-7-87

D. Homuth



← Looking at upstream
end of 'Travel Plaza'
property from Island
across River
§ Looking SW.



← looking at Downstream
end of 'Travel Plaza'
property from Island
across river
looking South



← looking at middle
of 'Travel Plaza'
property from
Island across
River.
Looking SW



12-7-87

D. Homuth

← looking at Center of
Travel Plaza Property
Taken from across River
looking to SW



← looking at River bank
just upstream (within 1000')
of North end of Travel
Plaza Property. Taken
from Island located
in Shelburne Co.
looking to W.

87 12 7



← Typical View of
River from point
where RR grade comes
closest to River
on 'Travel Plaza'
property
looking to NE



12-7-87
D. Homuth

← Looking To NE from RR
Grade in SW corner of G.L. #1



← Looking towards River (East)
along line between G.L. 1+2.

Looking SE along RR Grade
from center of G.L. 2



11

1992 ASCS
Photo
8" = 1 mile

Co. Rd. 75

1-94

Hosp. Duvel.
Cont. Pop.

Present Boundary

Present 1988 Bound.

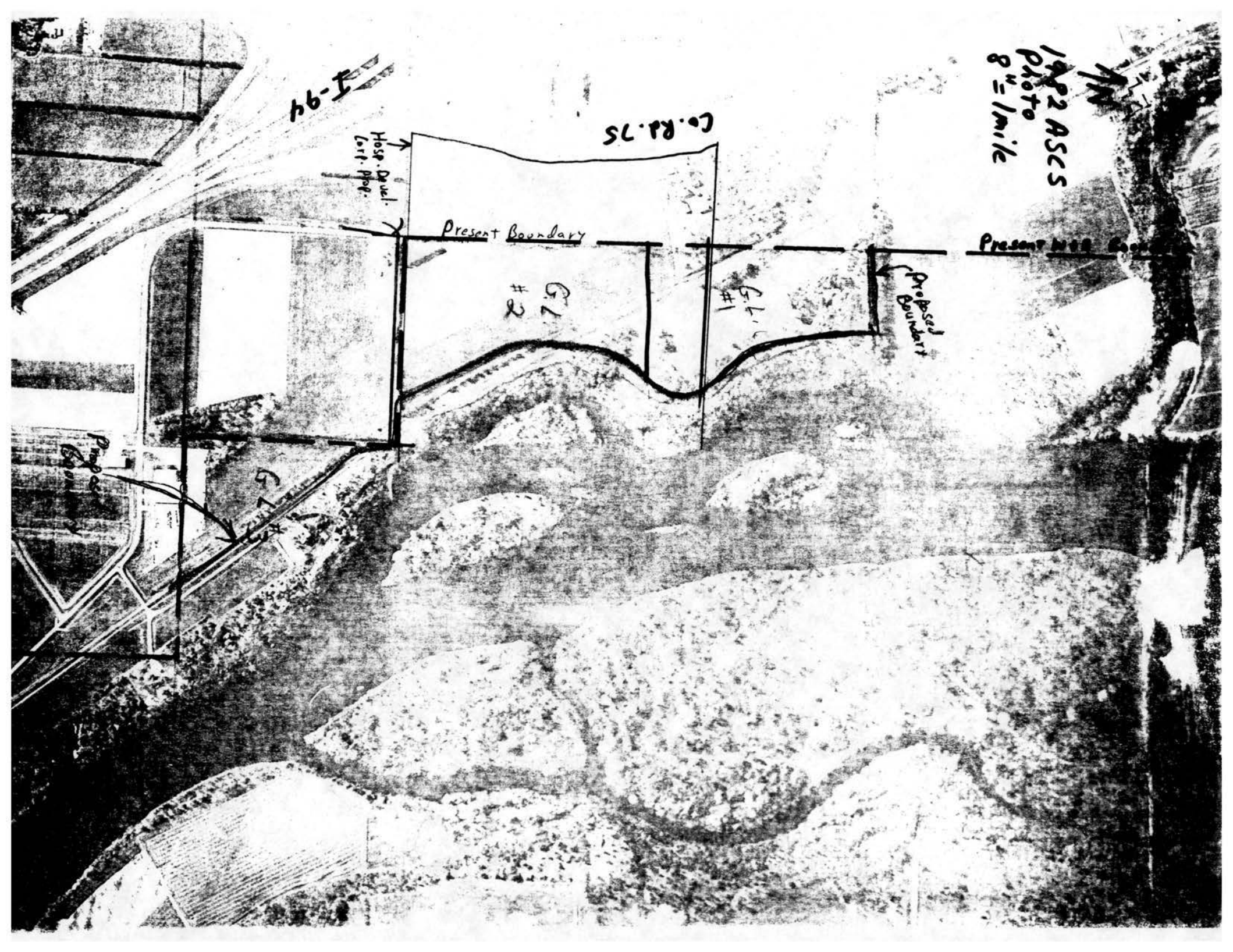
Proposed
Boundary

#2
G.L.

#1
G.L.



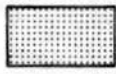
#1
G.L.

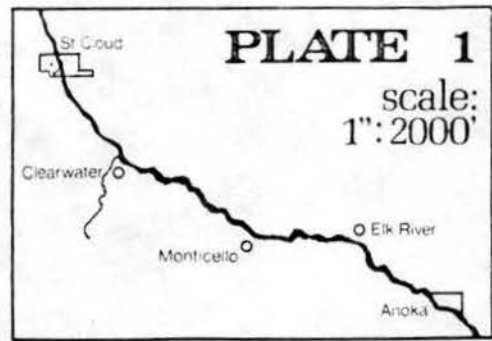
Proposed
Boundary



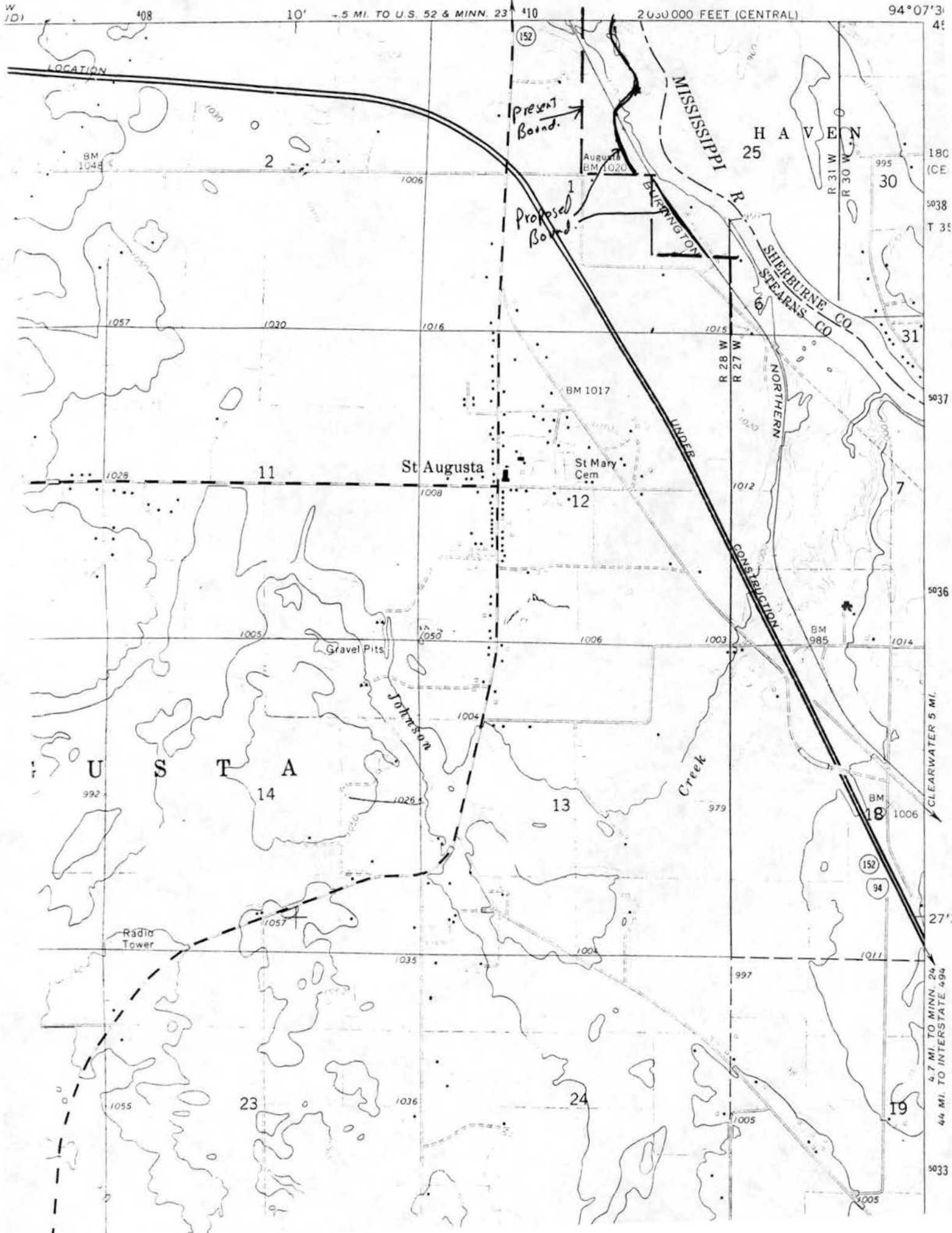


MANAGEMENT

-  FEE TITLE
-  SCENIC EASEMENT
-  ZONING







180
(CE
5038
T 3E
5037
5036
5036
18
1006
27'30"
4.7 MI. TO MINN. 24
44 MI. TO INTERSTATE 494
5033

LAND USE DISTRICT - ACREAGE IN STEARNS COUNTY

T 124 N - R 28 W

Section 13 - Government	Lot 3	3.88	acres	
"	Lot 4	20.12	"	
Section 24 - Government	Lot 1	57.58	acres	
"	Lot 2	29.32	"	
"	Lot 3	22.92	"	
"	Lot 4	23.65	"	
Section 25 - Government	Lot 1	17.15	acres	East
"	Lot 2	19.82	"	"
E1/2 NW1/4 Government	SW1/4	20.00	"	
"	Lot 3	49.38	"	
"	Lot 4	22.85	"	
"	Lot 5	48.98	"	
Section 36 - Government	Lot 1	44.66	acres	
"	Lot 2	26.15	"	
"	Lot 3	29.20	"	
"	Lot 4	27.96	"	

T 123 N - R 28 W

Section 1 - Government	Lot 1	10.50 37.26	acres
"	Lot 2	10.00 32.74	"
"	Lot 3	21.10 35.07	"

*within 300' of river only
within 300' of river only
North and East of RR only*

T 123 N - R 27 W

Section 6 - Government	Lot 1	29.10	acres
Section 7 - Government	Lot 3	30.08	acres
SE1/4 NW1/4		40.00	"
Government	Lot 2	40.00	"
"	Lot 1	20.62	"
NE1/4 SE1/4		40.00	"
Section 8 - Government	Lot 2	36.34	acres
"	Lot 1	25.82	"
E1/2 SW1/4 SW1/4		20.00	"
Section 17 - Government	Lot 4	40.52	acres
"	Lot 3	39.35	"
"	Lot 2	34.65	"
"	Lot 1	25.10	"
Section 20 - Government	Lot 2	26.43	acres
N1/2 SW1/4 NE1/4		20.00	"
Government	Lot 1	25.18	"
N1/2 NE1/4 SE1/4		20.00	"
Section 21 - Government	Lot 3	41.92	acres
"	Lot 2	37.96	"
"	Lot 1	48.10	"